

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**SALT RIVER RURAL ELECTRIC COOPERATIVE
CORPORATION**

COMPLAINANT

VS.

CITY OF BARDSTOWN

DEFENDANT

CASE NO. 91-222

O R D E R

On June 25, 1991, Salt River Rural Electric Cooperative Corporation ("Salt River") filed a complaint against the city of Bardstown, Kentucky ("Bardstown") alleging that Bardstown has installed underground electric lines that infringe upon Salt River's service territory as certified by KRS 278.016, 278.017, and 278.018, and that Bardstown intends to provide retail electric service to customers within Salt River's territory. Further, Salt River alleges that Bardstown has violated KRS 278.020 by failing to obtain from the Commission a Certificate of Public Convenience and Necessity. The complaint requests that Bardstown's facilities be removed from Salt River's territory and that Bardstown be assessed damages, costs, and attorney fees.

Based on a review of the complaint and otherwise being sufficiently advised, the Commission finds that it lacks subject matter jurisdiction over this controversy. Some years ago the

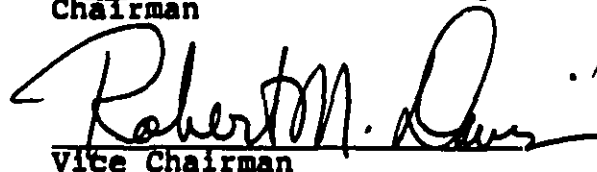
Commission entertained a complaint by Kentucky-American Water Company against the city of Georgetown arising from the city's extension of its water mains into the area served by the private utility. The Court of Appeals of Kentucky, then our highest court, ruled that the Commission had no jurisdiction over city utilities and that the Commission should not have entertained the complaint. In City of Georgetown v. Public Service Commission, Ky., 516 S.W.2d 842 (1974), the court held that, "while it may be desirable that the Public Service Commission resolve this type dispute because of its expertise in this area, this is of legislative, not judicial, concern, and we feel compelled to follow the clear language of KRS 278.010(3) [which excludes city-owned facilities from the definition of utility]."

IT IS THEREFORE ORDERED that Salt River's complaint against Bardstown be and it hereby is dismissed for lack of subject matter jurisdiction.

Done at Frankfort, Kentucky, this 9th day of July, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director